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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,476	07/23/2003	Paul W. Skinner	021028-000120US	1328
37490 7590 06/21/2007 Trellis Intellectual Property Law Group, PC 1900 EMBARCADERO ROAD SUITE 109 PALO ALTO, CA 94303			EXAMINER NGUYEN, DINH Q	
			ART UNIT 3752	PAPER NUMBER
			MAIL DATE 06/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/626,476

Applicant(s)

SKINNER, PAUL W.

Examiner

Dinh Q. Nguyen

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 35-53 and 77-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35-53 and 77-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/02/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 50 and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 50 and 53 claiming the same subject matter.

3. The intended use languages such as: "for dispensing materials", "for conveying a substance", "for sensing a condition" are not positive cited, thus carry no patentable weight.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 35-53, 77-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall, III in view of Iggulden et al. and Matz

Hall, III discloses a vegetation dispensing device comprising: a conduit 190 with a channel 195 (see figure 14), an outlet 232 for conveying a substance 206a-c, a sensor 200 for sensing growing conditions and communicated with the conduit 231 via controller 10 (see figure 15), a flow control 205 for regulating an amount of substance, a central control center 10, the plurality of sensors such as soil moisture, ground temperature, ion concentration (as disclosed in column 15, lines 34-60). Hall, III does not disclose the sensor being coupled to

Art Unit: 3752

the conduit, and a cable running along a length of the conduit. However, Iggulden et al. discloses an irrigation system with fluid flowing conduit 10/18/22 with a plurality of sensors 56' couple to the conduit 22 for sensing ground moisture and controlling the water flow and placed at regular intervals (see figures 6 and 8). Furthermore, the Iggulden et al irrigation system being adapted for dispensing fertilizers (see figure 11), and Matz discloses a lawn and gardening system having a conduit 122, an electrical cable 82 running a long a length of the conduit 122 (see figure 6) and connecting to sensor 482. Therefore, it would have been obvious to one having ordinary skill in the art to configure the device of Hall, III with a sensor being coupled to the conduit as suggested by Iggulden et al. and a cable running along a length of the conduit as suggested by Matz. Doing so would provide a way to control fluid dispensing within the system (see Iggulden et al. column 3, lines 23+) and provide electricity to the sensors.

With respect to claims 41, 43-47, 50, 52, 53, Hall, III in view of Iggulden et al. and Matz do not disclose expressly the sensors such as leaf wetness sensor, insect sensor, DNA sensor, sugar accumulation sensor, pheromone sensor or protein sensor etc. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the Hall, III device with the above sensors, because Applicant has not disclosed that the above sensors provides an advantage, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with any of the above sensors because they provide a way to monitor a condition of vegetation. Therefore, it would have been an obvious matter of design choice to modify the device of Hall, III, Iggulden et al. and Matz to obtain the invention as specified in claims 41, 43-47, 50, 52, and 53. Furthermore, it is obvious to one skilled in

Art Unit: 3752

the art to provide the Hall, III, Iggulden et al. and Matz device with any type of sensors (see Hall, III column 15, lines 43-45) and for one or more plants.

With respect to claims 78, Hall, III teaches that the apparatus is being used for grapes (see column 91, line 10).

### ***Response to Arguments***

5. Applicant's arguments filed 3/29/07 have been fully considered but they are not persuasive.

6. Applicant's arguments with respect to claims 77-53, 77-82 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

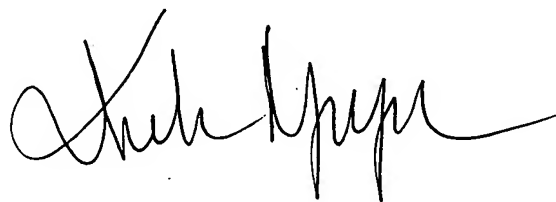
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

Art Unit: 3752

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Dinh Q. Nguyen', with a stylized, cursive script.

Dinh Q. Nguyen  
Primary Examiner  
Art Unit 3752

dqn